

**AGREEMENT FOR 9-1-1 EMERGENCY COMMUNICATIONS
DISPATCH SERVICES AND INFORMATION TECHNOLOGY SERVICES
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND THE CITY OF MORRO BAY**

This Agreement is made and entered into as of this ____ day of _____, 2014 (the "Effective Date"), by and between the County of San Luis Obispo, a political subdivision of the State of California (hereinafter "County"), and the City of Morro Bay, a municipal corporation (hereinafter "City").

RECITALS

WHEREAS, the County Sheriff's Office provides dispatch services throughout the geographical boundaries of County; and

WHEREAS, City desires to change the manner in which its Police Department receives dispatch services within the territorial boundaries of City; and

WHEREAS, it has been determined by City that County's Sheriff's Office can most efficiently and effectively provide 9-1-1 emergency radio dispatch services and information technology services for dispatch to City's Police Department beginning _____, 2014;

NOW, THEREFORE, the parties mutually agree as follows:

I. Scope of Work:

A. **Dispatch Services:** Commencing _____ 2014, County, through its Sheriff's Dispatch Division ("Dispatch"), will provide City police officers with 24-hour 9-1-1 answering services and radio and computer communications dispatch services (collectively, "Dispatch Services") as follows:

1. Answer all 9-1-1 telephone calls and any non-emergency calls for service that are transferred to Dispatch from City's Police Department's station. (If City desires a dedicated Morro Bay PD line in Dispatch that the public can call directly to request a call for service, then City shall establish the needed phone line(s) in coordination with Dispatch and be responsible for communicating with and paying the phone company directly).

2. Answer all radio transmissions from City's Police Department personnel calling from their vehicle radios or base station on law enforcement radio frequencies.

3. Transfer calls for fire department and harbor patrol emergency services directly to Cal FIRE or other appropriate providers of emergency services for dispatch of emergency services.

4. Relay pertinent information noted by the recipient of a telephone request for emergency services to the appropriate public safety agencies or other providers of emergency services for dispatch of an emergency service unit.

5. Provide urgent or emergency data inquiry responses to City's field units.

6. Obtain appropriate information from the California Law Enforcement Telecommunications System ("CLETS") as requested by City's Police Department and Harbor Patrol personnel.

7. Upon request, provide information to City's Police Department personnel for queries made related to wants, warrants, local criminal histories, Department of Motor Vehicles' information, or sensitive information intended only for law enforcement use. Dispatch will generally not conduct state criminal arrest and prosecution searches ("RAPS") on behalf of City; provided, however, that during non-operational hours of City's Police Department Records staff, RAPS inquiries may be made when the information is deemed necessary by City's Watch Commander (the "Watch Commander"). In such cases, the Watch Commander shall provide the case number or other pertinent information necessary for Dispatch to conduct the search.

8. Provide, install and maintain all necessary consoles and associated radio dispatch equipment to be located in County's communication center (the "Dispatch Equipment"). County has no obligation for the maintenance of radio, telephone or computer equipment owned or operated by City, nor for making any necessary changes or upgrades of equipment, radio or telephones owned or operated by City that are required to maintain police dispatch services.

9. Collaborate with City regarding Dispatch Services protocol specific to City and in furtherance of meeting the Dispatch Services needs of City.

City shall be responsible for the maintenance of the radio equipment owned or operated by City pursuant to this Agreement, including all repeater sites and equipment necessary for quality communications. All radio frequencies assigned to City that are regulated by the Federal Communications Commission shall be kept current and maintained by City at its own expense. If City desires additional repeater sites or radio frequencies that are non-operational at the time of execution of this Agreement, then all costs associated with adding the repeaters or frequencies will be borne exclusively by City.

B. After Hours Records Services: Commencing _____, 2014, County, through its Sheriff's Records Division, will provide City police officers with after hours (Monday through Friday 5:01 p.m. – 7:59 a.m.) and weekend (Saturday at 8:00 a.m. through Monday at 7:59 a.m.) records services as follows ("Records Services"):

1. Dispatch will monitor City's prime mnemonic, EEHS, after hours and advise the Watch Commander of any hit confirmations.
2. Upon written request by City's Police Department personnel, Dispatch shall serve as the agency's California Law Enforcement Telecommunication System (CLETS) operator performing CLETS entries, inquiries, modifications, clears, and cancels into all databases except the California State Criminal History System (CHS) or (RAPS).

C. Information Technology Services: Commencing _____, 2014, County, through its Information Technology Services Unit, will provide support services for City server environments connected to County's Network, ("IT Services") as described below:

1. Network Support Services: Once the Dispatch Equipment is installed, County will provide on-going staff support for City client/server environments connected to County's Network, including support and maintenance of its computer hardware, software, including Mobile Data Computer (MDC) and data communications, installing upgrades to supported computer hardware, installing new releases to supported computer software, and resolving reported problems with the supported hardware, software or data communications that are necessary for the communications link between City's server environment and County's Network. (Any third party vendor or manufacturer costs that are necessary for providing technological maintenance or support for supported software, computer, or data communication equipment, or for warranty, repair work, a new release, upgrades, parts or replacements, shall be billed to City at actual cost.)

2. **Additional Services:** City shall procure and pay for a mutually agreed upon portion of any hardware, software or data communications equipment, including warranties, licenses, upgrades, repairs and replacements that will reside and remain at County's Dispatch and which may be required to facilitate a requested and agreed upon implementation of a service by County to City. Those costs shall be calculated proportionate to the cost of one dispatch seating position and equipment for the dispatch position (Current CLETS billing configuration will remain unchanged.)

II. Confidential Data: In the performance of the work or services provided under the terms of this Agreement, or in contemplation thereof, County may have access to private or confidential information that may be owned or controlled by City. Therefore, County shall abide by all applicable local, state and federal laws, rules, regulations, guidelines, and directives regarding the confidentiality and security of said information and shall keep such information confidential, unless County is required by law to disclose it.

III. City's Cooperation: In order for County to fulfill its obligations under this Agreement for the provision of Dispatch and IT Services in a timely and effective manner, City staff shall provide full and uninhibited cooperation complete and unfettered access to all necessary equipment, supplies, and office space, and full and immediate access to information and data that are necessary for County's ability to provide services hereunder.

IV. Status of Employees:

A. Dispatchers as County Employees. All persons employed by County to perform services pursuant to this Agreement shall be and remain County employees and shall at all times, be under the direction and control of the County. All persons employed by County to perform the services pursuant to this Agreement shall be entitled solely to the rights and privileges given to County employees and shall not be entitled, as a result of providing services required hereunder, to any additional rights and privileges given to City employees. City shall not be liable for the direct payment of salaries, wages, benefits, or other compensation to any County personnel performing services hereunder for County or any liability other than that provided for in this Agreement.

B. City's Dispatch Employees as Prospective County Employees: City understands County provides a merit system of employment pursuant to the provisions of the County Civil Service Enabling Law (Gov. Code, §§ 31100 *et seq.*), which requires all applicants for County employment are hired in strict compliance with the Enabling Law and the County Civil Service Ordinance (County Code, Title 2,

Chapter 2.40). As such, County will consider any applications submitted by City dispatch employees that meet the civil service criteria. Successful applicants will be required to complete and pass a background check and psychological and medical examinations pursuant to Civil Service Commission rules. In the event a City employee is hired through County's civil service examination process, the employee shall be treated as any "new hire" (e.g., subject to successful completion of a probationary period) and shall not receive any time in service credits towards County employment for his or her years of services with City.

V. Billing and Payment:

A. Dispatch Service:

1. In exchange for the Dispatch Services, as described in Section I(A) of this Agreement, City shall pay to County an amount calculated annually for two full-time dispatchers, per Deputy Sheriffs' Association Dispatcher Unit (BU22) current MOU, annual overtime and a uniform allowance, which costs are set forth in Attachment 1 hereto, and incorporated herein by reference (the "Dispatch Service Fee.")

2. The Dispatch Service Fee shall be payable by City to County semi-annually, thirty (30) days after receipt of County's December and June invoices for services. The first invoice issued by County will be prorated for any period of time that is less than a semi-annual charge.

3. County shall submit to City, County's three year estimate of the Dispatch Service Fee in order to assist City in preparing its annual budget.

B. Information Technology Services:

1. In exchange for the IT Services described in Section I(C)(1) (excluding section (2) which is billed at the rate indicated therein) provided by County hereunder, City shall pay to County the actual cost per hour for the requisite level of IT Services needed for the support and maintenance of the dispatch services provided hereunder, which costs are set forth in Attachment 2, and incorporated herein by reference ("IT Service Fee").

2. IT Service Fees shall be payable by City to County, thirty (30) days after receipt of County's statement of service.

3. County shall submit to City, no later than April 15 of each calendar year, County's estimate (Cost Applied Summary) of the annual costs

of the IT Service Fees to be provided hereunder in order to assist City in preparing its annual budget.

VI. Unforeseen Mandates: In the event legislative or regulatory changes require County to incur unforeseen expenses (i.e., drastic increases in mandatory training, new required equipment, employee labor MOU increases, minimum pension obligations, etc.), City agrees to compensate County in addition to its payment for Dispatch Services, for its proportionate share of the cost requirements based upon the number of dispatch positions contained in this Agreement.

VII. Term, Renewal and Termination of the Agreement:

A. Initial Term: The initial term of this Agreement shall be for three years, commencing with the execution of this Agreement, and ending on _____ of 2017, unless sooner terminated as provided herein ("Initial Term"); and

B. Renewal Term: Following completion of the initial Term, the Agreement shall automatically renew each July 1st thereafter for three (3) year terms (each, a "Renewal Term"), unless either party delivers written notification to the other party sixty days prior to the July 1 renewal date in writing of its intent to terminate this Agreement. County agrees, at the renewal of this Agreement, the cost of services provided hereunder shall not increase to an amount that exceeds ten percent (10%) of the Dispatch Fee identified in the previous year's services, exclusive of additional staffing needs occasioned solely by service to City and the additional costs of unforeseen mandates and special services as set forth in this Agreement.

C. Termination of Agreement. Either party may terminate this Agreement with or without cause prior to the expiration of the Initial Term or a Renewal Term by complying with the following process:

- i. The party desiring to terminate shall first provide the other party written notice of its intent to terminate fourteen (14) months prior to the date of desired termination of the Agreement ("Notice of Intent to Terminate").
- ii. Within sixty (60) days after delivery of the Notice of Intent to Terminate, the parties shall meet to attempt to resolve disputes, if any, by complying with the Dispute Resolution Process detailed in Section VIII below.
- iii. If after completion of the process described in Section VIII below or if sixty (60) days after the Notice of Intent to Terminate, the

party desiring to terminate continues to desire to terminate the Agreement, it may terminate by providing twelve-months' (12-months') prior written notice of termination to the other party ("Notice of Termination").

- iv. Within one hundred twenty (120) days after delivery of Notice of Termination, the parties shall complete a transition plan providing for an orderly transition of responsibilities from County to City. The transition plan shall ensure that there is no substantial disruption in the level of dispatch services to City and at a minimum shall include objectives, project phases, and timelines, division of equipment and project roles and responsibilities. Each party shall fund their respective costs in developing the transition plan.

D. Costs of Early Termination. In the event City terminates this Agreement prior to the expiration of its term, City agrees to reimburse County for all expenses resulting from the early termination. In the event County terminates this Agreement prior to the expiration of its term, County agrees to reimburse the County for any advance costs paid for services not yet received.

VIII. Dispute Resolution: In the event of a dispute concerning terms, conditions, and responsibilities set forth in this Agreement, the parties shall attempt to resolve such dispute informally through their authorized agents or designees. In the event any dispute is not resolved by the informal process set forth herein, the parties agree to attempt to resolve any such dispute by submitting their dispute to a committee composed of two (2) representatives appointed by County and two (2) representatives appointed by City, and one neutral appointee who shall be agreed upon by the parties. The committee's decision as to the disputed issues shall not be binding. (Any costs that may be incurred due to the appointment of the fifth neutral committee member shall be shared equally between the parties.) The parties agree this process shall be completed within forty five (45) days.

IX. Indemnification, Warranties and Insurance:

A. Warranty, Limitations thereof, and Limitations of Liability: In providing the technological services to City, including any software or hardware utilized in connection with the dispatch services provided hereunder, County warrants it will utilize its best efforts attempting to provide the technological services outlined herein. County does not, however, either expressly or impliedly, guarantee, warrant, or insure those services, or any software or hardware for fitness for any particular purpose, or represent or warrant errors or omissions will not occur. In no event and under no circumstances will County, its officers, employees,

agents or contractors, have any liability whatsoever for losses or damages caused by County suffered by City, nor for any loss of use, lost profits, lost data or any other form of direct, indirect, special, or consequential damages suffered by City, nor for any claim against County made by City arising from or in any way related to this Agreement even if County has been advised of the possibility of such claims or damages in advance, unless County expressly accepts responsibility for same in advance and in writing. County's improper or negligent provision of a technological service or services shall, however, constitute a material breach of this Agreement, and shall constitute grounds for the immediate termination of this Agreement by City, and entitles City to a reimbursement of the fees billed by County and paid by City for any improperly or negligently provided service or services, but only to the extent such improperly or negligently provided service or services has resulted in a loss, damage, or injury to City that may be quantified.

B. Indemnification: The parties' obligations under this indemnification provision shall survive the termination or completion of work under this Agreement:

1. Notwithstanding anything in this Agreement to the contrary, County shall indemnify, defend, protect, and hold harmless City, its officers, employees and agents from and against any and all liability, losses, claims, damages, expenses, demands and costs arising out of County's performance of the services under or arising from this Agreement and caused by the negligent act or omission, willful misconduct or violation of law of or by County, its employees, agents and subcontractors, except where caused by the active or passive negligence or willful misconduct of City or as otherwise provided or limited by law.

2. Notwithstanding anything in this Agreement to the contrary, City shall indemnify, defend, protect, and hold harmless County, its officers, employees and agents from and against any and all liability, losses, claims, damages, expenses, demands and arising out of City's performance under or arising from this Agreement and caused by the negligent act or omission, willful misconduct or violation of law of or by City, its employees, agents and subcontractors, except where caused by the active or passive negligence or willful misconduct of County or as otherwise provided or limited by law.

C. Insurance: Each party shall maintain in force at all times during the performance of this Agreement, a policy or policies of insurance (or self-insurance covering same) and in the minimum limits of liability as stated herein:

1. Comprehensive general liability, including but not limited to premises, personal injuries, products, and completed operations for combined single limit of not less than \$1,000,000 per occurrence;
2. Comprehensive automobile liability, including but not limited to property damage, bodily injury, and personal injuries for combined single limit of not less than \$1,000,000 per occurrence; and
3. Worker's Compensation covering statutory requirements of the State of California.
4. Upon request of the other, evidence of compliance with said insurance requirements shall promptly be supplied in writing.

X. General Terms and Conditions:

- A. Amendment: This Agreement may be amended or modified only by an instrument in writing signed by both parties.
- B. Waiver: Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms or conditions in this Agreement.
- C. Beneficiaries and Assignment: No person or organization shall be a third party beneficiary of this Agreement. Neither party may assign all or any part of its rights, privileges, benefits or responsibilities hereunder to any other party without the express prior written authorization and consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.
- D. Compliance with Applicable Law: The parties shall comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.
- E. Heading: The section and paragraph headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- F. Construction: The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment hereto.

G. Authority: Any individual executing this Agreement on behalf of a party represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such entity and bind the entity to the terms and conditions of this Agreement.

H. Integration: This Agreement, including exhibits referenced herein, if any, shall represent the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties as of the Effective Date hereof.

I. Records Retention: In accord with California Government Code section 8546.7, the parties acknowledge this Agreement, and performance and payments under it, are subject to examination and audit by the State Auditor for three years following final payment under the Agreement. County will keep and maintain all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three years (or for any longer period required by law) from the date of final payment to County under this Agreement. Upon reasonable notice, either party shall have the right to inspect and audit any records maintained by the other party relevant to this Agreement, to the extent allowed by law.

J. Force Majeure: Neither County nor City shall be deemed in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, including without limitation: acts of God; rulings or decisions by municipal, federal, state or other governmental bodies; any laws or regulations of such municipal, federal, state or other governmental bodies; or any catastrophe resulting from flood fire, explosion, or other causes beyond the control of the defaulting party. Any party delayed by force majeure shall, as soon as reasonably possible, give the other party written notice of the delay. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other party written notice thereof and shall resume performance under this Agreement.

K. Governing Law: This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of laws provisions. Venue for any cause of action arising out of a right or duty hereunder shall be brought in the County of San Luis Obispo.

L. Notices: Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail as follows:

To County:

San Luis Obispo County Sheriff
1585 Kansas Ave.
San Luis Obispo, CA 93405

With Copy To:

County Administrative Officer
1055 Monterey Street, D430
San Luis Obispo, CA 93401

To City:

Morro Bay Police Chief
850 Morro Bay Blvd.
Morro Bay, CA 93442

With Copy To:

City Manager
595 Harbor Street.
City of Morro Bay
Morro Bay, CA 93442

IN WITNESS WHEREOF, the County and City have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

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| <p>COUNTY OF SAN LUIS OBISPO</p> <p>By: _____ Bruce Gibson, Chairman of the Board of Supervisors</p> <p>ATTEST:</p> <p>By: _____ County Clerk and Ex-Officio Clerk to the Board of Supervisors</p> | <p>CITY OF MORRO BAY</p> <p>By: _____</p> <p>ATTEST:</p> <p>By: _____</p> |
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APPROVED AS TO FORM
AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: 9/8/14